

1 BILL LOCKYER, Attorney General  
of the State of California  
2 GAIL M. HEPPELL, State Bar No. 84134  
Supervising Deputy Attorney General  
3 ROBERT C. MILLER, State Bar No. 125422  
Deputy Attorney General  
California Department of Justice  
4 1300 I Street, Suite 125  
P.O. Box 944255  
5 Sacramento, California 94244-2550  
Telephone: (916) 324-5161  
6 Facsimile: (916) 327-2247

7 Attorneys for Complainant

8  
9 BEFORE THE  
PHYSICAL THERAPY BOARD  
10 DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against: Case No. 1D-2002-62962

12 **MITSUMARO MOTOYOSHI**  
13 3102 Pender Island St.  
14 Sacramento, CA 95691

**A C C U S A T I O N**

15 Physical Therapy License No. PT-26300,  
16 Respondent.  
\_\_\_\_\_

17  
18 Complainant alleges:

19 **PARTIES**

20 1. Steven K. Hartzell ("Complainant") brings this Accusation solely in his  
21 official capacity as the Executive Officer of the Physical Therapy Board of California, Department  
22 of Consumer Affairs.

23 2. On or about July 9, 2001, the Physical Therapy Board issued Physical  
24 Therapy License Number PT 26300 to Mitsumaro Motoyoshi ("Respondent"). The Physical  
25 Therapy License was in full force and effect at all times relevant to the charges brought herein and  
26 will expire on July 31, 2005, unless renewed.

1

2

4

5

8

9

O

# 1

3

20

1

3

6

1 that the records of unemancipated minors shall be maintained at least  
2 one year after the minor has reached the age of 18 years, and not in  
any case less than seven years.

3 . . . .

4 (j) The aiding or abetting of any person to violate this  
chapter or any regulations duly adopted under this chapter.


5 (k) The aiding or abetting of any person to engage in the  
unlawful practice of physical therapy.

6 (l) The commission of any fraudulent, dishonest, or  
corrupt act which is substantially related to the qualifications,  
7 functions, or duties of a physical therapist or physical therapist  
assistant.

8  
9 6. Section 2661.5 of the Code states in relevant part that:

10 (a) In any order issued in resolution of a disciplinary  
proceeding before the board, the board may request the  
11 administrative law judge to direct any licensee found guilty of  
unprofessional conduct to pay to the board a sum not to exceed the  
12 actual and reasonable costs of investigation and prosecution of the  
case.

13 7. Section 725 of the Code states in relevant part that:

14  Repeated acts of clearly excessive prescribing or administering of drugs or  
treatment, repeated acts of clearly excessive use of diagnostic procedures, or repeated acts of  
15 clearly excessive use of diagnostic or treatment facilities as determined by the standard of  
the community of licensees is unprofessional conduct for a physician and surgeon, dentist,  
16 podiatrist, psychologist, physical therapist, chiropractor, or optometrist.

17 **FIRST CAUSE FOR DISCIPLINE**  
**(Excessive Prescribing of Physical Therapy Treatment)**  
**[Bus. & Prof. Code ' ' 725, 2660]**

18  
19 8. Respondent Motoyoshi is subject to disciplinary action under sections 725 and  
20 2660 of the Code for excessive prescribing of physical therapy treatment and gross negligence based  
21 on the following facts:



Patient D.C.

23 (1) Patient D.C. was referred for physical therapy treatment to Kinections Sports  
24 Medicine and Physical Therapy, Inc., on April 21, 1999. Four different physical therapists provided  
25 treatment for D.C. through September 25, 2001 for a total of 120 visits for physical therapy: Mary  
26 Beth Kiefer provided physical therapy treatment to D.C. from April 21, 1999 to December 27, 2000,

1 then again for one visit on January 12, 2001; David Hartwig took over treatment for D.C. from  
2 January 9, 2001 to May 29, 2001; Jason Marvin took over treatment of D.C. from June 4, 2001 to  
3 August 29, 2001; and Respondent Motoyoshi took over treatment of D.C. on September 21, 2001.

4 Respondent=s treatment of D.C. constitutes excessive prescribing of physical  
5 therapy in violation of section 725 of the Code.

6 Respondent=s treatment of D.C. constitutes gross negligence in failing to  
7 adequately supervise physical therapy assistants in violation of section 2660 of the Code.

8 (2) Respondent failed to document any objective medications of progress by  
9 patient C.D.

10 (3) Respondent failed to implement a home exercise program for D.C. and failed  
11 to document progress or implementation of other treatment modalities.

12 **SECOND CAUSE FOR DISCIPLINE**  
13 **(Gross Negligence and Aiding and Abetting)**  
**[Bus. & Prof. Code ' 2660(h), (j) and (k)]**

14 9. Complainant realleges paragraph 8 above as if fully set forth at this point.

15 (1) Respondent supervised physical therapy assistants and aides in the  
16 treatment of patient D.C. without providing adequate supervision in violation of section 2660, which  
17 constitutes gross negligence and aiding and abetting the unlawful practice of physical therapy.

18 **THIRD CAUSE FOR DISCIPLINE**  
19 **(Gross Negligence and Inadequate Record Keeping)**  
**[Bus. & Prof. Code ' 2660(h) and 2620.7]**

20 10. Complainant realleges paragraphs 8 through 9 above as if fully set forth at this  
21 point.

22 (1) Respondent failed to produce and maintain adequate documentation of  
23 the physical therapy treatments provided to patient D.C. in violation of section 2660 of the Code  
24 which constitutes gross negligence, and section 2620.7 of the Code, inadequate patient record  
25 keeping.

26 **PRAYER**

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Physical Therapy Board issue a decision:

1. Revoking or suspending Physical Therapy Number PT- 26300, issued to Mitsumaro Motoyoshi;

2. Ordering Mitsumaro Motoyoshi to pay the Physical Therapy Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 2661.5;

///

3. Taking such other and further action as deemed necessary and proper.

DATED: November 19, 2003

Dated 11/21/03

*Original Signature by*  
STEVEN K. HARTZELL  
Executive Officer  
Physical Therapy Board of California  
Department of Consumer Affairs  
State of California  
Complainant